



Terry Tamminen
Agency Secretary

California Environmental Protection Agency

Air Resources Board • Department of Pesticide Regulation • Department of Toxic Substances Control
Integrated Waste Management Board • Office of Environmental Health Hazard Assessment
State Water Resources Control Board • Regional Water Quality Control Boards



Arnold Schwarzenegger
Governor

Certified Mail: 7002 0510 0003 2320 1046

June 13, 2005

Chris Albertson, Fire Chief
Petaluma City Fire Department
198 "D" Street
Petaluma, California 94952

Dear Mr. Albertson:

The California Environmental Protection Agency (Cal/EPA) in coordination with the Office of Emergency Services, Office of the State Fire Marshal, Department of Toxic Substances Control, and the State Water Resources Control Board evaluated Petaluma City Fire Department Certified Unified Program Agency (CUPA) on January 18th and 19th, 2005. The evaluation included an in-office review and field inspections. Enclosed is a copy of the CUPA Evaluation Team's evaluation report that I have reviewed and accepted. All deficiencies identified in the report are being satisfactorily addressed or have been corrected. Cal/EPA will coordinate with your agency to track and correct all remaining deficiencies that have not been corrected.

Thank you for your commitment to the protection of public health and the environment through your participation in the Unified Program.

If you have any questions or need any further assistance, please contact Mr. Larry Matz, Chief, Unified Program Section, California Environmental Protection Agency, at (916) 327-3442.

Sincerely,

Don Johnson
Assistant Secretary
California Environmental Protection Agency

Enclosure

Mr. Chris Albertson
June 13, 2005
Page 2

cc: Mr. Michael Ginn, Fire Marshal
Petaluma City Fire Department
11 English Street
Petaluma, California 94952

Mr. Ahmad Kaskoli (Sent Via Email)
State Water Resources Control Board
P.O. Box 944212
Sacramento, California 94244-2102

Mr. Mark Pear (Sent Via Email)
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700 Heinz Avenue, Suite 210
Berkeley, California 94710-2721

Mr. Francis Mateo (Sent Via Email)
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STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY



Alan C. Lloyd Ph.D
Agency Secretary

**CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION
SUMMARY OF FINDINGS**

Arnold
Schwarzenegger
Governor

CUPA: Petaluma City Fire Department

Evaluation Date: January 18th and 19th

EVALUATION TEAM

CALEPA: Dennis Karidis
SWRCB: Ahmad Kashkoli
DTSC: Mark Pear
OES: Fred Mehr
OSFM: Francis Mateo

This Summary of Findings includes the deficiencies identified during the evaluation, observations and recommendations for program improvement, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. **Within 30-days from the evaluation date noted above, please complete and submit your response to each deficiency and recommendation identified in this Summary of Findings to the California Environmental Protection Agency.** Your response should identify the corrections made or actions to be taken and the date by which that correction will be completed for each deficiency. For each correction, please provide a copy of the revised document or other evidence of correction. Please submit these documents via e-mail, if maintained electronically, to Dennis Karidis at dkaridis@calepa.ca.gov or by mail to:

California Environmental Protection Agency
Attn: Dennis Karidis
Unified Program Section
1001 I Street, 2nd Floor
Sacramento, CA 95812

Questions or comments can be directed to Dennis Karidis at 916-327-9558.

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

**Recommended
Timeframe for
Correction**

	<u>Deficiencies</u>	<u>Citation</u>	
1	UST facility files reviewed either lacked plot plans, or the plot plans did not contain all the required elements. The plot plans were missing the location (tank, ATG, sump, UDC, monitoring panel, etc) of where the monitoring is performed.	T23 - 2641(h) T23 - 2632(b) T23 2632(d)(1)(C) and Appendix VI	1 Year
2	The operating permit does not reference plot plan on the operating permit conditions.	T23 - 2712(i)	1 Year
3	<p>The CUPA did not conduct a complete oversight inspection. During the inspection, the inspector inadvertently overlooked that fuel filters are a regulated hazardous waste. Please send the CUPA's re-inspection report along with a copy of the TSDF manifest confirming shipment of filters when it is received by the facility.</p> <p>Spent fuel filters that exhibit the characteristic of toxicity due to benzene are identified as hazardous waste and are required to be managed as hazardous waste. Hazardous waste fuel filters do not meet the definition of use oil filters in 22 CCR 66266.130(b) and may not be commingled and/or managed as used oil filters in accordance with subsection (c) of 22 CCR 66266.130 as of the date of inspection. Furthermore, the draining of liquids from spent fuel filters does not constitute treatment of a hazardous waste (when performed in compliance with California Health and Safety Code (HSC), Section 25144.7. After draining, the filters must be placed and stored in closed containers (22 CCR 66265.173). The evaporation of liquid from drained spent fuel filter (air –drying) constitutes treatment of a hazardous waste pursuant to HSC 25123.5 and requires authorization from DTSC pursuant to 22 CCR 66262.10(h). Containers of hazardous waste fuel filters should be sent to an authorized hazardous waste facility via a registered transporter on a uniform hazardous waste manifest.</p> <p>On January 1, 2005, the status of fuel filters was modified. HSC Section 25250.22 (a) states that notwithstanding any other provision of state law, and to the extent consistent with the federal act, a filter that contains a residue of gasoline or diesel fuel, may be managed in accordance with the requirements in the department's regulations governing the management of used oil filters, unless the department adopts regulations establishing management standards specific to filters that contain those residues.</p> <p>(b) Management of filters that contain residue of gasoline, and commingled filters that include filters that contain residue of gasoline, shall also meet all of the following requirements:</p> <ol style="list-style-type: none"> 1) The filters shall be stored in containers that are designed to prevent ignition of the gasoline and that are labeled "used oil and gasoline filters." 2) For purposes of transportation, the filters shall be packaged, the package shall be marked and labeled in accordance with the applicable requirements of Parts 172 (commencing with Section 172.1), 173 (commencing with Section 173.1), 178 (commencing with Section 178.1), and 179 9 commencing with Section 179.1) of Title 49 of the Code of Federal regulations. 3) The filters shall be stored and otherwise managed in accordance with applicable state and local fire code regulations. 4) Any gasoline, or used oil commingled with gasoline, that accumulates in containers or other equipment used for filter storage or recycling, and nonmetal filter material removed from filter housing, shall be evaluated pursuant to Section 66262.11 of Title 22 of the California Code of Regulations, to determine its regulatory status under the federal act, and it shall be managed accordingly. 	T27 - 15200(b)	30 days

**Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings**

4	<p>The CUPA is not conducting inspections with a frequency that is consistent with its Inspection and Enforcement Plan and with the inspection of other program elements. The CUPA has not inspected all 179 hazardous waste generators that have been identified by the CUPA. The last three annual inspection summary reports indicate the following:</p> <ul style="list-style-type: none"> 1) 177 hazardous waste generators were identified in Fiscal Year 01/02 of which 51 were inspected. 2) 179 hazardous waste generators were identified in Fiscal Year 02/03 of which 52 were inspected. 1) 179 hazardous waste generators were identified in Fiscal Year 03/04 of which 47 were inspected. <p>The Fire Department has inspected approximately 84% of all known facilities generating hazardous waste over the past three fiscal years. In addition, there is a difference of approximately a 150 facilities between what the CUPA has reported in its latest inspection summary report for Fiscal Year 2003-2004, which is 157 facilities, and the total number of businesses manifesting off hazardous waste with active EPA ID numbers listed in the Department's Hazardous Waste Tracking System, which is 329 facilities.</p> <p>After identifying any unlisted facilities, the CUPA shall complete inspections of all facilities within its triennial inspection cycle.</p>	<p>T27 - 15200(b)(1) T27 - 15200(f)(1)(C)</p>	90 days
5	<p>The CUPA must ensure the emergency response plans contain the required data elements. The CUPA's Emergency Plan/Procedure Data Elements did not include: mitigation, prevention, or abatement of hazards to persons, property, or the environment.</p>	T19 - 2731	60 days
6	<p>The CUPA has not established a CalARP dispute resolution procedure with the required elements of T19 2780.1.</p>	T19 - 2780.1	60 days

CUPA Representative

(Print Name)

(Signature)

Evaluation Team Leader

(Signature)

(Telephone)

Evaluation Team

(OES)

(SWRCB)

(OSFM)

(DTSC)

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

PROGRAM OBSERVATIONS AND RECOMMENDATIONS

1. **Observation:** Agency UST files reviewed did not contain documents required to verify facility compliance. Files were missing one or more of the following: current financial responsibility, monitoring plan, response plan, plot plan, and annual monitoring equipment certification report.

Recommendation: The SWRCB strongly encourages the agency to develop a file review checklist to ensure that all required documents are located in the file. This will help agency inspectors to verify that facility owners/operators are submitting the required information and that clerical staff know what needs to be kept in the files.

2. **Observations:** Grand Gasoline, 101 McDowell Boulevard, facility-monitoring plan is not accurate. The monitoring plan information is not consistent with the UST facility form.

Recommendations: The SWRCB strongly encourages the agency to thoroughly review the facility-monitoring plan prior to approval to make certain that it has all the required elements and the information provided is consistent with facility monitoring equipment.

3. **Observations:** The CUPA has a very general procedure for dispute of fees in its CUPA surcharge fee procedure. The CUPA also has a detailed fee dispute procedure in the original CUPA application.

Recommendations: Take the detailed fee dispute procedure laid out in the original CUPA application and merge it into the surcharge fee procedure.

4. **Observations:** The CUPAs consolidated permit issuance procedure does not contain timelines for the permit process. The CUPA has flow charts describing the Unified Program's permitting procedures, including timelines in its original CUPA application.

Recommendations: Take the flow charts laid out in the original CUPA application and merge them into the consolidated permit issuance procedure.

5. **Observations:** The CUPA has references to the DTSC AEO policy in its Inspection and Enforcement Plan. The CUPA also has copies of the 2001 AEO Guidance with forms. In addition, the CUPA does not include the new red tag authority as an enforcement option.

Recommendations: Update references in the Inspection and Enforcement Plan to reflect the new AEO authority found in HSC 25404.1.1. Visit the Cal/EPA website and download the latest guidance document and forms. Replace your current AEO guidance and forms with the new ones. In addition, add the red tag authority as an enforcement option in Petaluma's Inspection and Enforcement Plan.

6. **Observations:** The CUPA is using the self-audit guidance checklist with a brief narrative to meet the requirements of the self-audit.

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

Recommendations: Use the self-audit procedure provided by Cal/EPA to complete any future self-audits.

7. **Observation:** The CUPA's Inspection Reports do not segregate Class I violations and chronic Class II violations under a Summary of Violations from minor violations under a Notice to Comply.

Recommendation: The CUPA may wish to modify its inspection report to segregate these elements in order to distinguish between enforcement modes for Class I, Class II, and minor violations.

8. **Observation:** The CUPA has not been documenting in its inspection reports that consent has been granted by the owner/operator to enter the place of business to conduct a hazardous waste generator inspection.

Recommendation: Develop an inspection report to document that consent has been granted by the owner/operator on the form. Documentation of consent only serves to strengthen any potential enforcement case defeating any potential challenge that the 4th amendment may have been abridged.

9. **Observation:** The CUPAs current inspection report for hazardous waste generators may be improved by referencing the citations to Title 22 and the Health and Safety Code. In reviewing files, it was noted you have already adopted this practice with your engine companies citing the Uniform Fire Code in their inspection reports.

Recommendation: Revise the generator inspection reports to include citations to Title 22 and the Health and Safety Code so that business owners/operators may research the code independently. DTSC looks forward to the implementation of the November 7, 2004 Memo by staff of the Petaluma Fire Department.

10. **Observation:** The CUPA re-inspects all facilities to determine whether or not a facility has returned to compliance. This is an excellent practice providing the CUPA has the man-hours to carry this out. Revisiting each facility is the best approach to adopt to determine whether a facility has returned to compliance. The CUPA also has the option of allowing facility representatives to submit a Return to Compliance Certification to confirm that corrections have been completed for minor violations cited during a previous inspection.

Recommendation: Keep up the good work. If in the future re-inspecting all facilities becomes unmanageable, the CUPA does have the option of allowing facility representatives to submit a Return to Compliance Certification within 30 days of the date of inspection.

11. **Observation:** Inspection reports reviewed do not incorporate a thorough and comprehensive listing of generator requirements.

Recommendation: Please consider using the provided example checklist as a model in developing and modifying your own present inspection report. A comprehensive checklist

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

included in the inspection report ensures that no rule, regulation, or statute is inadvertently overlooked.

12. **Observation:** The inspector needs to acquaint himself with the different storage time requirements for a CESQG, SQG, and LQG.

Recommendation: The implementation of a checklist would alleviate this problem.

13. **Observation:** The CUPA has not accessed the Hazardous Waste Tracking System of DTSC, which would have enabled the CUPA to determine the present number of facilities with in its jurisdiction and to review their manifests before conducting a hazardous waste generator inspection.

Recommendation: Please begin accessing the Department's Hazardous Waste Tracking System for future generator inspections to determine waste profiles and generation status from previous manifests sent. In addition, please review the print out provided to the City of Petaluma Fire Department listing active facilities within its jurisdiction that have applied for permanent EPA ID numbers and please compare it to your own database. A discrepancy exists between the state's database indicating 325 facilities and the Fire Department's database indicating 179 facilities.

14. **Observation:** The inspection reports reviewed lacked any detailed narrative for the facilities inspected.

Recommendation: Develop the narrative portion of the inspection report so that a reviewer of the report may gain an insight into the type of historical operation occurring out at the site. DTSC looks forward to the implementation of the November 7, 2004 Memo by staff of the Petaluma Fire Department.

15. **Observation:** Three complaints were referred to the CUPA by DTSC from January 15, 2002 thru February 06, 2003, which were the following: 1) Trailer next door to Nanette Cameron, 12830 Valley Ford Road, Space #3, Petaluma, CA; 2) Bathtub Refinishing, 215-B G Street, Petaluma, CA and 3) Donald DeBernardi, Donald DeBernardi's Farm, Valley Ford Road, Petaluma CA. Two complaints were for businesses outside the city limits. For the complaint concerning Bathtub Refinishing, there were no records indicating that a follow-up inspection had been conducted or that a reply had been sent to DTSC confirming receipt.

Recommendation: For future referrals please reply to DTSC acknowledging receipt of complaints and the outcome of investigations.

16. **Observations:** The Area Plan has been updated two years ago with no significant changes. Yet, the Area Plan Element Checklist was missing.

Recommendations: On the next update of the area plan, the CUPA should include the required Area Plan Element Check list to reflect the area plan.

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

17. **Observations:** The CUPA's boilerplate Unified Program (UP) forms has the old OES spill phone number of 1-800-852-7550. (Note: The 800 number will still work.)

Recommendations: The new phone number for OES spill notification is 916-845-8911.

18. **Observations:** OES was requested by the CUPA to provide training for the CalARP program.

Recommendations: OES will provide CalARP training in the next month.

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

1. CUPA inspector, Cary Fergus, is very knowledgeable about the UST program and did a thorough inspection of the Chevron Station UST facility on January 11, 2005. The inspector's experience was responsible for detecting a faulty tank annular sensor, which was replaced during the inspection.
2. The CUPA meets with all Sonoma County CUPAs on a quarterly basis. The group commonly addresses countywide issues in a coordinated, consolidated, and consistent way. For example:
 - ☐ The Sonoma County CUPAs have held annual business meetings to gather feedback from the regulated community,
 - ☐ The Sonoma County CUPAs have held workshops to informing the regulated community with the latest environmental regulatory information. Most recently a workshop was held for UST designated operators covering the requirements that have changed recently. Last year on March 24th, the CUPA covered the topics of universal waste, photo processing, and silver only waste handling.
3. The Sonoma County CUPAs have created an inspectors workgroup that meets on a quarterly basis. Inspectors throughout the county meet to discuss Unified Programs inspections. This group helps to provide a support system for CUPA inspectors and consistent inspections throughout the county.
4. The CUPA has new inspectors train with various CUPA inspectors in the county on occasion.
5. The CUPA participates in the Sonoma County Environmental Quality Assurance Committee. The group is composed of various regulatory agencies across different environmental media. The groups has developed a standardized eight page automotive repair service inspection checklist with a two page inter-agency referral form. This group's effort has increased communication among environmental regulatory agencies in Sonoma County and reduced the burden on regulated businesses.
6. The CUPA provide basics Unified Program training for engine companies performing fire inspection every 18-24 months to help identify possible Unified Program issues.
7. The CUPA consolidates all Unified Programs requirements on the Consolidated Permit. New and renewed permits are only issued after all fees are paid and compliance with each applicable program elements is achieved.
8. The CUPA has an excellent working relationship with the Sonoma County District attorneys office. Enforcement cases are typically referred to the DA. For example:
 - ☐ The Petaluma City Fire Department has settled a civil enforcement action thru the Sonoma County DA's Office against the Hussmann Corporation for the improper storage of numerous compressed gas cylinders for \$30,000 dollars.
 - ☐ The Petaluma City Fire Department referred a case of a chemistry high school teacher that had illegally stored a variety of chemicals at his personal residence, including sodium

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

metal and yellow phosphorus, which had ignited and exploded. A property lien was later filed and satisfied when the property was eventually sold in a divorce proceeding.

- ☐ The Petaluma City Fire Department settled a civil enforcement action thru the Sonoma County DA's Office against Spectrum Organic Products in the amount of \$25,000 in the deaths of two employees due to the failure of the company to comply with OSHA confined space regulations and not filing a Hazardous Materials Business Plan listing argon gas.
 - ☐ All UST facilities who have not submitted designated operator certification will be referred to the DA in a countywide action.
9. The files are organized and arranged with dividers, which makes it easy for the reviewer/user to find information about the facility. For example, on the inside left is the HMMP Cover & Statistical Data Sheet, a page which gives a quick overview of the businesses, general information and data regarding inspections. The following pages provide information about permits, Hazardous materials inventory, training, emergency response data, certification, and UST information.
10. The CUPA has very accurate and complete database that reflect the files.